

News Release



U.S. Department of Labor
Office of Public Affairs
Dallas, Texas
Release Number 03-834-DAL

For Immediate Release
Dec. 3, 2003
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Labor Department Obtains Court Order Preventing Former Texas Executive from Avoiding Debt to Plan

SAN ANTONIO-- The U.S. Department of Labor has obtained a court order on Nov. 24, 2003, preventing the former president of bankrupt NetForce, Inc., in San Antonio, Texas, from discharging a \$5,000 debt owed to the company's 401(k) plan as part of his personal bankruptcy proceeding.

"This action sends a message that the Labor Department will not tolerate the misuse of plan money and will take action to return the assets to eligible workers," said Steven Eischen, director of the Dallas regional office of the Employee Benefits Security Administration (EBSA), whose office investigated the case.

The department also filed an adversary complaint on Nov. 19, alleging that Thomas A. Willems, the former president and owner of NetForce, violated the Employee Retirement Income Security Act. The suit alleges that Willems stopped forwarding employee contributions to the plan trust from Jan. 1, 2000 to March 10, 2003, and used plan assets for purposes other than to pay benefits, including paying his and the company's bills.

The company filed Chapter 7 bankruptcy on March 10, 2003, under the name JDJT, Inc. The 401(k) plan covered 24 participants as of April 21, 2003.

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole but allows them to avoid EBSA enforcement actions and civil penalties as well as any applicable excise taxes. For more information about the VFCP see www.dol.gov/ebsa.

Employers and workers can reach the Dallas regional office at (214) 767-6831 or through EBSA's toll-free number, **1-866-444-EBSA (3272)**, for help with problems relating to private-sector retirement and health plans.

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(Chao v. Willems)
Adversary No. 03-5201-C
In re: Willems Bankruptcy Number 03-53183-lmc